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21 UNITED STATES DISTRICT COURT  
22 NORTHERN DISTRICT OF CALIFORNIA  
23 SAN FRANCISCO DIVISION

24 ORACLE AMERICA, INC.  
25 Plaintiff,  
26 v.  
27 GOOGLE INC.  
28 Defendant.

Case No. CV 10-03561 WHA  
**ORACLE'S RESPONSE TO THE  
COURT'S REQUEST FOR  
INFORMATION**

Dept.: Courtroom 8, 19th Floor  
Judge: Honorable William H. Alsup

1 The Court's request for information is correct in the sequence of the noted filings in  
2 the *Oracle* and *HP* cases. Oracle wishes to assure the Court, however, that its objection to the  
3 trial date in this case is merely the result of an unintentional confluence of events.

4 On September 18, 2015, Judge Kirwan, the presiding judge in *HP v. Oracle*, informed the  
5 parties that, given the significant amount of time that had lapsed since Phase 1, he intended to  
6 commence the *HP* trial within six months. Joint Status Conference Statement at 3-4, *Hewlett-*  
7 *Packard Co. v. Oracle Corp.*, No. 1-11-CV-203163 (Santa Clara Super. Ct. Oct. 9, 2015), ECF  
8 No. G-77405. Oracle surveyed its *HP* counsel in the days after the September 18<sup>th</sup> conference to  
9 determine availability within that six month period and propose a schedule for the remainder of  
10 that case. Oracle's co-lead trial counsel for the *HP* case, Karen Dunn of the Boies Schiller firm,  
11 however, is expecting a baby in December.

12 Oracle and Ms. Dunn were in trial in yet another case at this time – *Oracle v. Rimini*  
13 *Street* – which began on September 14, 2015 and ran through October 6<sup>th</sup> (with a verdict rendered  
14 on October 13, 2015). *Oracle USA, Inc. v. Rimini Street, Inc.*, 2:10-cv-00106-LRH-PAL, ECF  
15 Nos. 774 (day 1 of trial), 877 (day 17 of trial, closing arguments), 896 (jury verdict). Shortly  
16 before the conclusion of the *Rimini Street* trial, Ms. Dunn conveyed to Oracle's *HP* litigation  
17 team that the earliest she could try the *HP* case would be May 23, 2015, following her return from  
18 maternity leave. Oracle's General Counsel consulted with management on the feasibility of this  
19 date, and on October 5, 2015 conveyed that date to co-counsel in the *HP* matter and instructed  
20 that it be included in the *HP* Joint Status Conference Statement.

21 Your Honor's Order setting a tentative trial date in this matter was issued on the following  
22 day, October 6. Third Case Management Order, ECF No. 1333. Oracle's Head of Litigation was  
23 still at trial in the *Rimini Street* matter on that day, and its General Counsel had recently left that  
24 trial and was out of the office. Because in-house counsel were dealing with trial in another  
25 matter, and because the in-house teams on the matters are otherwise distinct, the conflict was not  
26 appreciated by the Oracle in-house teams for the *HP* and *Google* matters until after the *HP* Joint  
27 Status Conference Statement was executed and filed with the court.

28 At the case management conference in the *HP* case, held before Judge Kirwan on October

1 13, the court indicated that its only two available trial dates were mid-February and mid-May. It  
2 was clear that pushing the trial later was not an option, especially since Judge Kirwan was already  
3 exceeding his six month limit. Because Oracle's lead counsel was not available in February, the  
4 May date was its only option. Oracle was then left with no choice but to raise the conflict with  
5 this Court.

6 Although the sequence of events is unfortunate, Oracle is not by any means seeking to  
7 unduly delay trial in this case. Indeed, the parties had jointly submitted a negotiated schedule  
8 geared to the May 9 trial date prior to learning of this conflict. Joint Stipulation and Proposed  
9 Order Re Case Schedule, ECF No. 1334. Due to the conflict, Oracle respectfully requests the  
10 adjournment of the May 9 trial date to a new date in July or thereafter, consistent with the Court's  
11 schedule.

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15 Dated: October 20, 2015

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